

Message Text

CONFIDENTIAL

PAGE 01 STATE 055173
ORIGIN EA-09

INFO OCT-01 ISO-00 DHA-02 CIAE-00 DODE-00 PM-04 H-01
INR-07 L-03 NSAE-00 NSC-05 PA-01 PRS-01 SP-02 SS-15
NSCE-00 SSO-00 USIE-00 INRE-00 OMB-01 TRSE-00 IO-13
AF-08 ARA-06 EUR-12 NEA-10 ACDA-07 ORM-02 /110 R

DRAFTED BY EA/K:JSBOARDMAN:JCM
APPROVED BY EA/K:EHURWITZ
D/HA - MR. HILL (SUBS.)
-----120035Z 003074 /70
O 112357Z MAR 77 ZFF4
FM SECSTATE WASHDC
TO AMEMBASSY SEOUL NIACT IMMEDIATE

C O N F I D E N T I A L STATE 055173

E.O. 11652: GDS

TAGS: SHUM, KS

SUBJECT: KOREAN HUMAN RIGHTS REPORT

REFS: (A) STATE 240706 (281623Z SEPT 76)
(B) STATE 046674
(C) STATE 53199

1. KOREAN HUMAN RIGHTS REPORT GIVEN TO SENATE FOREIGN
RELATIONS SUBCOMMITTEE ON FOREIGN ASSISTANCE WAS
ESSENTIALLY THE SAME AS VERSION PROVIDED TO THE
SUBCOMMITTEE IN SEPTEMBER 1976; TEXT WAS TRANSMITTED IN
STATE 240706.

2. TEXT OF FINAL VERSION WHICH EMBASSY MAY PROVIDE TO
ROKG AT YOUR DISCRETION IS AS FOLLOWS:

BEGIN TEXT
CONFIDENTIAL

CONFIDENTIAL

PAGE 02 STATE 055173

1. POLITICAL SITUATION

THE KOREAN PENINSULA IS DIVIDED WITH THE REPUBLIC OF KOREA
FACING A CONTINUING SECURITY THREAT FROM NORTH KOREA.
PRESIDENT PARK CHUNG HEE CAME TO POWER IN KOREA IN MAY 1961
AFTER ENGINEERING A BLOODLESS MILITARY COUP. HE WAS

ELECTED PRESIDENT IN 1963 WHEN CIVILIAN GOVERNMENT WAS RESTORED AND HAS BEEN REELECTED TWICE.

AFTER A DECLARATION OF MARTIAL LAW IN OCTOBER 1972, THE CONSTITUTION WAS EXTENSIVELY CHANGED AND PARK REMAINED IN OFFICE UNDER THE NEW ORDER. THE KOREAN GOVERNMENT MAINTAINS THAT THE THREAT TO THE ROK POSED BY NORTH KOREA REQUIRES A STRONGER PRESIDENCY AND TIGHTER GOVERNMENT CONTROLS OVER POLITICAL ACTIVITIES.

II. LEGAL SITUATION

THE YUSHIN CONSTITUTION AUTHORIZED THE PRESIDENT TO SUSPEND TEMPORARILY CERTAIN RIGHTS OTHERWISE GUARANTEED TO THE PEOPLE WHEN AN EMERGENCY SITUATION IS DEEMED TO EXIST. SUCH EMERGENCY MEASURES WERE DECLARED IN 1974 AND 1975. UNDER THE 1974 EMERGENCY MEASURES, 203 PERSONS WERE TRIED; 168 WERE SUBSEQUENTLY RELEASED, ALTHOUGH NOT PARDONED. THE REMAINING PRISONERS WERE FOUND GUILTY OF CRIMES UNDER EXISTING STATUTES; EIGHT WHO HAD BEEN SENTENCED TO DEATH UNDER THE ANTI-COMMUNIST AND NATIONAL SECURITY LAWS WERE EXECUTED.

THERE CONTINUE IN EFFECT IN THE REPUBLIC OF KOREA SIGNIFICANTLY RESTRICTIVE LEGAL MEASURES. THESE INCLUDE EMERGENCY MEASURE NO. 9 WHICH PROHIBITS SPECIFIED POLITICAL ACTIVITIES, INCLUDING CALLS FOR CONSTITUTIONAL REVISION AND CRITICISM OF THE EMERGENCY MEASURE ITSELF; POLITICAL ACTIVITIES BY STUDENTS; AND THE REPORTING

CONFIDENTIAL

CONFIDENTIAL

PAGE 03 STATE 055173

OF ACTIVITIES PROHIBITED UNDER THE EMERGENCY MEASURE, AS WELL AS SPREADING "FALSE RUMORS."

UNDER A SEPARATE LAW, IT IS ALSO A CRIMINAL OFFENSE TO "DEFAME" THE GOVERNMENT WHILE ABROAD OR IN CONTACTS WITH FOREIGNERS IN KOREA. THE KOREAN GOVERNMENT HAS JUSTIFIED ITS RESTRICTIONS ON INTERNAL POLITICAL ACTIVITY IN TERMS OF THE NEED TO INCREASE NATIONAL UNITY IN ORDER TO COPE WITH THE NORTH KOREAN THREAT AND TO PROMOTE CONTINUED ECONOMIC DEVELOPMENT. THE OPPOSITION POLITICAL PARTIES, CATHOLIC AND PROTESTANT CHURCH GROUPS AND STUDENTS HAVE BEEN AMONG THE MAIN DOMESTIC CRITICS OF THE GOVERNMENT.

UNDER THE POLITICAL PROVISIONS OF THE EMERGENCY MEASURE, WHICH PROVIDES FOR A MINIMUM SENTENCE OF ONE YEAR AND MAXIMUM SENTENCE OF 15 YEARS IMPRISONMENT, MORE THAN 400 PERSONS HAVE BEEN TRIED OR ARE UNDER ARREST AWAITING TRIAL. MOST OF THOSE SENTENCED HAVE BEEN STUDENTS. IN

ADDITION, 18 PROMINENT POLITICAL AND RELIGIOUS CRITICS OF THE PARK GOVERNMENT, INCLUDING FORMER OPPOSITION PRESIDENTIAL CANDIDATE KIM TAE CHUNG, WERE TRIED FOR VIOLATING EMERGENCY MEASURE NO. 9 FOR THEIR PARTICIPATION IN A MARCH 1 ANTI-GOVERNMENT STATEMENT, WHICH CALLED FOR THE ABOLISHMENT OF EMERGENCY DECREES, RESTORATION OF A PARLIAMENTARY DEMOCRACY AND AN INDEPENDENT JUDICIARY. THE STATEMENT ALSO CALLED UPON PRESIDENT PARK TO RESIGN BECAUSE OF HIS ECONOMIC POLICIES. THOSE EIGHTEEN WERE CONVICTED ON AUGUST 28 AND RECEIVED SENTENCES RANGING FROM TWO TO EIGHT YEARS. ANOTHER PROMINENT CRITIC OF THE REGIME, POET KIM CHI HA, IS BEING TRIED FOR VIOLATING THE BROADLY-WORDED ANTI-COMMUNIST LAW.

IN SUM, THE PRESENT YUSHIN CONSTITUTION GUARANTEES VIRTUALLY ALL THE BASIC RIGHTS AND FREEDOMS PRESCRIBED BY
CONFIDENTIAL

CONFIDENTIAL

PAGE 04 STATE 055173

THE UNIVERSAL DECLARATION OF HUMAN RIGHTS BUT PROVIDES THAT THEY MAY BE--AS THEY OFTEN ARE--LIMITED BY LAW OR PRESIDENTIAL DECREE. IN EXERCISING THE EMERGENCY POWERS UNDER THE YUSHIN CONSTITUTION, THE KOREAN GOVERNMENT HAS EMPLOYED RESTRICTIVE LEGAL MEASURES WHICH LIMIT SOME OF THE RIGHTS LISTED IN THE UNIVERSAL DECLARATION OF HUMAN RIGHTS.

III. OBSERVANCE OF INTERNATIONALLY RECOGNIZED HUMAN RIGHTS

A. INTEGRITY OF THE PERSON

ARTICLE 3: CHAPTER II OF THE YUSHIN CONSTITUTION ASSURES MANY RIGHTS OF THE PERSON "EXCEPT AS PROVIDED BY LAW." UNDER THE EMERGENCY DECREES, ARTICLE 3 RIGHTS HAVE BEEN INFRINGED UPON BY THE USE OF SURVEILLANCE, DETENTION FOR QUESTIONING AND LENGTHY INTERROGATION WITHOUT COUNSEL.

ARTICLE 5: TORTURE IS CONSTITUTIONALLY PROHIBITED AND KOREAN GOVERNMENT OFFICIALS HAVE CONSISTENTLY DENIED THAT ANY PERSONS HAVE BEEN TORTURED WHILE UNDER INVESTIGATION. IN FEBRUARY 1975, HOWEVER, 17 FORMER PRISONERS STATED THAT THEY HAD BEEN TORTURED IN 1972 AND 1974. PSYCHOLOGICAL PRESSURE DURING INTERROGATION, INCLUDING DEPRIVATION OF SLEEP, HAS BEEN ALLEGED BY PERSONS WHO HAVE BEEN DETAINED.

ARTICLE 9: WARRANTS FOR ARREST, ENTRY AND INTERROGATION ARE PROVIDED FOR IN THE CONSTITUTION AND THE CODE OF CRIMINAL PROCEDURES BUT CAN BE AND ARE SUSPENDED UNDER THE EMERGENCY MEASURES. THE ARBITRARY DETENTION OF

PERSONS FOR QUESTIONING IS COMMON. HOWEVER, ARREST AND
CONTINUED DETENTION WITHOUT EVENTUAL TRIAL IS NOT COMMON.
WITH SOME PROMINENT EXCEPTIONS, CHARGES ARE USUALLY

BROUGHT QUICKLY, AND VIRTUALLY ALL PERSONS CHARGED ARE
CONFIDENTIAL

CONFIDENTIAL

PAGE 05 STATE 055173

EVENTUALLY TRIED. EXILE IS NOT PRACTICED.

ARTICLE 10: JURY TRIALS ARE NOT USED IN THE KOREAN
LEGAL SYSTEM; PANELS OF JUDGES HEAR CASES. THE
EXECUTIVE IS REPORTED TO HAVE EXERCISED ITS POWER TO
INFLUENCE THE JUDICIARY, PARTICULARLY IN POLITICALLY
SENSITIVE CASES.

ARTICLE 11: THE RIGHT TO A FAIR TRIAL IS ASSURED IN THE
CONSTITUTION. IN KOREAN LEGAL PRACTICE A PERSON IS
GUILTY UNTIL PROVEN INNOCENT, AND FEW PERSONS FORMALLY
CHARGED WITH POLITICAL OFFENSES HAVE BEEN FOUND INNOCENT,
ALTHOUGH OFTEN SENTENCES ARE EVENTUALLY REDUCED OR
SUSPENDED. THE RIGHT OF APPEAL UP TO THE KOREAN SUPREME
COURT IS READILY GRANTED IN ACCORDANCE WITH LEGAL
REQUIREMENTS. LEGAL CODE REQUIREMENTS STATE THAT A
SUSPECT MUST BE INDICTED WITHIN TWENTY DAYS OF FORMAL
ARREST AND A TRIAL MUST BEGIN WITHIN SIX MONTHS OF
INDICTMENT. MOST, BUT NOT ALL, TRIALS HAVE BEEN PUBLIC,
ALTHOUGH PRESS COVERAGE IS OFTEN RESTRICTED.

B. OTHER IMPORTANT FREEDOMS

DISCRIMINATION IN POLITICAL, ECONOMIC, SOCIAL OR
CULTURAL MATTERS ON ACCOUNT OF SEX, RELIGION OR SOCIAL
STATUS IS PROHIBITED BY THE CONSTITUTION. KOREAN LAW IS
LARGELY CONSONANT WITH THE PROVISIONS OF THE UNIVERSAL
DECLARATION OF HUMAN RIGHTS REGARDING DISCRIMINATION.
THE CONSTITUTION ASSURES FREEDOM OF RESIDENCE AND
MOVEMENT. THERE ARE NO RESTRICTIONS ON INTERNAL
MOVEMENT, BUT CONTROL ON FOREIGN TRAVEL EXISTS. THE
RIGHT TO INDIVIDUAL PROPERTY IS CONSTITUTIONALLY
GUARANTEED AND PRACTICED. FREEDOM OF CONSCIENCE AND
RELIGION ARE ALSO GUARANTEED. WHILE RELIGION IS FREELY
PRACTICED, THE GOVERNMENT HAS VIEWED CERTAIN ACTIONS BY
ITS RELIGIOUS CRITICS AS VIOLATING THE
CONFIDENTIAL

CONFIDENTIAL

PAGE 06 STATE 055173

CONSTITUTIONAL REQUIREMENT FOR THE SEPARATION OF RELIGION

AND POLITICS. THE GOVERNMENT'S RELIGIOUS CRITICS CONTEND THAT THEIR ACTIONS ARE A MANIFESTATION OF SERIOUS CONCERN ON MATTERS OF MORALITY AND CONSCIENCE.

FREEDOM OF SPEECH AND THE PRESS IS LISTED AS A CONSTITUTIONAL GUARANTEE, SUBJECT TO QUALIFICATION BY LAW. PRIOR CENSORSHIP OF THE PRESS IS PRACTICED. PRIOR GOVERNMENT PERMISSION IS REQUIRED FOR OUTDOOR MEETINGS OF LARGE GROUPS. INDOOR MEETINGS CAN BE HELD WITHOUT GOVERNMENT CONSENT. HOWEVER, UNDER EMERGENCY MEASURE

NO. 9 ALL ASSEMBLIES AIMED AT CRITICISM OF THE CONSTITUTION ARE ILLEGAL, AS ARE UNAUTHORIZED STUDENT GATHERINGS.

IV. OTHER HUMAN RIGHTS REPORTING

AMNESTY INTERNATIONAL'S 1975-76 "ANNUAL REPORT" INCLUDES REPORTS OF KOREANS WHO HAVE BEEN ARRESTED AND TRIED UNDER EMERGENCY REGULATION NO. 9 AND OF TRIALS OF KOREAN CLERGY, INTELLECTUALS AND STUDENTS. A REFERENCE IS ALSO MADE TO AMNESTY'S MISSION TO KOREA IN 1975 WHICH SET FORTH INFORMATION ON HUMAN RIGHTS VIOLATIONS RELATED TO THE TREATMENT OF PRISONERS AND THE JUDICIAL PROCESS. REFERENCES TO ALLEGED INCIDENTS OF TORTURE ARE ALSO MADE IN THE AMNESTY 1974 "REPORT ON TORTURE."

FREEDOM HOUSE LISTS THE REPUBLIC OF KOREA AS "PARTLY FREE".

END TEXT.
VANCE

CONFIDENTIAL

NNN

Message Attributes

Automatic Decaptioning: X
Capture Date: 01-Jan-1994 12:00:00 am
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: REPORTS, HUMAN RIGHTS
Control Number: n/a
Copy: SINGLE
Sent Date: 11-Mar-1977 12:00:00 am
Decaption Date: 01-Jan-1960 12:00:00 am
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 22 May 2009
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1977STATE055173
Document Source: CORE
Document Unique ID: 00
Drafter: JSBOARDMAN:JCM
Enclosure: n/a
Executive Order: GS
Errors: N/A
Expiration:
Film Number: D770085-0229
Format: TEL
From: STATE
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1977/newtext/t19770367/aaaacgyq.tel
Line Count: 256
Litigation Code IDs:
Litigation Codes:
Litigation History:
Locator: TEXT ON-LINE, ON MICROFILM
Message ID: c4a124b9-c288-dd11-92da-001cc4696bcc
Office: ORIGIN EA
Original Classification: CONFIDENTIAL
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 5
Previous Channel Indicators: n/a
Previous Classification: CONFIDENTIAL
Previous Handling Restrictions: n/a
Reference: 77 STATE 240706, 77 STATE 46674, 77 STATE 53199
Retention: 0
Review Action: RELEASED, APPROVED
Review Content Flags:
Review Date: 10-Mar-2005 12:00:00 am
Review Event:
Review Exemptions: n/a
Review Media Identifier:
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
SAS ID: 3129869
Secure: OPEN
Status: NATIVE
Subject: KOREAN HUMAN RIGHTS REPORT
TAGS: SHUM, KS
To: SEOUL
Type: TE
vdkgvwkey: odbc://SAS/SAS.dbo.SAS_Docs/c4a124b9-c288-dd11-92da-001cc4696bcc
Review Markings:
Margaret P. Grafeld
Declassified/Released
US Department of State
EO Systematic Review
22 May 2009
Markings: Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 22 May 2009